

REMARKS/ARGUMENTS

Prior to the entry of this Amendment, claims 32, 34-36, and 38-43 were pending in this application. Claims 32, 34, and 38 have been amended, claims 35, 36, and 40-43 have been canceled, and claims 44-58 have been added herein. Therefore, claims 32, 34, 38, 39, and 44-58 are now pending in this application. Applicants respectfully request reconsideration of these claims, as amended, for at least the reasons presented below.

35 U.S.C. § 112 Rejections

The Final Office Action has rejected claims 32, 34-36, and 38-43 under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As an initial matter, the Applicants point out that claims 35, 36, and 40-43 have been canceled herein. Therefore, the rejection of these claims is believed to be moot and will not be addressed in detail. As for pending claims 32, 34, 38, and 39 that are the subject of this rejection, amendments have been made to claim 32, upon which claims 34, 38, and 39 depend, that are thought to address the reasons for the rejection. More specifically, the Office Action quoted the recitation of "traversing the first tree in the second tree" as a basis of the rejection. This recitation has been amended herein to read "saving in the second tree the information that is encountered when traversing the first tree." Additionally, the Office Action argues that "the preamble recites the method of searching for best matches" while "the body of the claim describes generating trees, updating and traversing trees." Amendments have been made herein that are thought to clarify the use of the first tree and second tree in searching for a best matches in a table. For these reasons, the Applicants respectfully request reconsideration and withdrawal of the rejection.

35 U.S.C. § 101 Rejection, Double Patenting

The Office Action has rejected claims 32-35 under 35 U.S.C. § 101, double patenting of the "same invention" type, as allegedly claiming the same invention as that of claims 1-5 of prior U.S. Patent No. 6,678,675 (hereinafter "the '675 patent"). The Applicants respectfully submit that the rejection is improper and should be withdrawn.

As quoted by the Office Action, MPEP §804 states that "a rejection based on double patenting of the 'same invention' type finds its support in the language of 35 U.S.C. 101 which states that 'whoever invents or discovers any new and useful process... may obtain a patent therefor...' (Emphasis added)." MPEP §804 then goes on to state, as quoted in the Office Action, that "the term 'same invention,' in this context, means an invention drawn to **identical subject matter.**" (Emphasis added).

Claim 32 recites in part "dynamically modifying the information for dynamic call routing in the table; [and] updating the first tree data based on the dynamically modified information for dynamic call routing." The claims of the '675 patent do not recite dynamically modifying the information for dynamic call routing in the table and updating the first tree data based on the dynamically modified information for dynamic call routing. Thus the pending claims and the claims of the '675 patent are not drawn to **identical subject matter.**

The Applicants also note that the Office Action goes on to make an argument that this difference between the pending claims and the claims of the '675 patent "would have been obvious to one of ordinary skill in the art." However, the Applicants respectfully contend that such an analysis, while perhaps appropriate for a non-statutory type double patenting rejection, is not appropriate for a statutory type double patenting rejection as made in the Office Action and which requires identical subject matter. For at least these reasons, the Applicants request reconsideration and withdrawal of the rejection.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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